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BEFORE THE

Federal Communications Commission

WASHINGTON, D. C. 20554

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Federal Communication Commission
Bureau / Office

In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments,)
FM Broadcast Stations.)
(Charlotte and Grand Ledge, Michigan))

MB Docket No. 03-222
RM-10812

To: Assistant Chief, Audio Division, Media Bureau

COUNTERPROPOSAL AND COMMENTS

Christian Broadcasting System, Ltd. ("CBSL"), licensee of, *inter alia*, WLCM(AM), Charlotte, Michigan, hereby submits its Counterproposal and Comments in the above-referenced proceeding.

Rubber City Radio Group ("RCRG"), licensee of WQTX(FM), Charlotte, Michigan, has requested that the Commission amend the FM Table of Allotments to delete Channel 224A from Charlotte and allot Channel 225A at Grand Ledge, Michigan, as that community's first local service. RCRG further requests that its license be modified to specify operation on Channel 225A at Grand Ledge. RCRG's WQTX and CBSL's WLCM are the only two stations licensed to Charlotte, Michigan.

CBSL herein requests to change its community of license to Holt, Michigan. In furtherance of this objective, CBSL shall file a "major change" application to specify Holt as WLCM's

community during the filing window that will be open from January 26 through January 30, 2004. See *Public Notice, DA 03-3532* (released November 6, 2003).¹

The Commission has long recognized that where a station seeks to change its community of license, it is essential that its present community retain at least one local transmission service. *E.g. Modification of FM and TV Authorizations to Specify a New Community of License*, 5 FCC Rcd 7094, ¶ 16 (1990) (“*Community of License*”) (on reconsideration of 4 FCC Rcd 4870 (1989)). Indeed, in this proceeding, the *Notice of Proposed Rule Making, DA 03-3228* (Assistant Chief, Audio Division, released October 24, 2003), noted that if Channel 225A were allotted to Grand Ledge, Charlotte would retain local service from WLCM.

Given that RCRG and CBSL both seek to change the community of license of their respective Charlotte stations, the Commission must choose between the two proposals. In formulating its policies with respect to an FM or TV station’s specification of a new community of license, the Commission contemplated that such a choice might be necessary:

... AM and FM licensees in the same community might request a change in community of license, and the public interest may be best served by the retention of one of the stations in the community. In this situation, we believe the request of the AM licensee should be generally preferred over that of the FM licensee, provided that the AM licensee’s request is filed prior to the expiration of the comment period for the Notice of Proposed Rule Making proposing the FM

¹ Changing WLCM’s community of license to Holt does not necessarily entail a change in the station’s technical facilities. Holt is within WLCM’s current city-grade (5.0 mV/m) contour. See Exhibit A hereto (Engineering Statement of Munn-Reese, Inc.). CBSL is currently evaluating whether to file a request for modification of WLCM’s daytime technical facilities. For purposes of this allotment proceeding, the Commission may assume that CBSL’s daytime facilities will be unchanged. CBSL does intend to submit, during the filing window, a proposal for nighttime facilities of 250 watts or more from a separate nighttime location which facilities would encompass 100% of Holt within the interference-free contour. See Exhibit A hereto.

licensee's request. This preference reflects our goal of proceeding as rapidly as possible to enhance the quality of AM broadcasting.

Community of License, supra, at ¶ 23. Thus, CBSL's request to change WLCM's community of license to Holt as its first local transmission service is to be preferred over RCRG's proposal to move WQTX to Grand Ledge. Moreover, Holt has an appreciably larger population than does Grand Ledge (11,315 versus 7,813). *See* Exhibit B hereto.

Holt is situated in the Lansing Urbanized Area. But significantly, the present WLCM facility already covers approximately 50.77% of the Lansing Urbanized Area with 5.0 mV/m service. In light of the fact that WLCM already provides city-grade contour to more than 50% of the Lansing Urbanized Area, a *Tuck*² analysis appears not to be necessary. *E.g.*, *Okmulgee and Glenpool, Oklahoma*, 18 FCC Rcd 14,370 (Assistant Chief, Audio Division 2003); *Athens and Doraville, Georgia*, 18 FCC Rcd 17,627 (Assistant Chief, Audio Division 2003). Nonetheless, CBSL herein provides a *Tuck* showing to demonstrate that not only does Holt qualify as a community for allotment purposes but that it is independent of Lansing. In addition to other documents, the photographs included in Exhibit C hereto, taken by CBSL's President on December 12, 2003, underscore Holt's status as a separate community.

A Tuck Analysis Supports Adoption of CBSL's Proposal

Holt is located in Delhi Township. Although not incorporated, Holt is identified as a Census Designated Place ("CDP") by the Census Bureau.³ Under *Tuck*, the Commission considers (a) the

² *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988).

³ The designation of a location as a CDP raises the presumption that it is a community for allotment purposes. *E.g.* *Ehrenberg, Arizona*, DA 03-3230 (Assistant Chief, Audio Div., released October 24, 2003); *Port St. Joe and Eastpoint, Georgia*, 18 FCC Rcd 11,233 (Assistant Chief, Audio Div. 2003).

degree to which the station would provide coverage not only to the designated community of license but to the nearby metropolis; (b) the size and proximity of the designated community vis-à-vis the central city and (c) the degree to which the proposed community is independent from the central city.

With respect to the first factor, as noted previously, WLCM's daytime city-grade contour (5.0 mV/m) would encompass only 50.77% of the Lansing Urbanized Area. The Commission has on numerous occasions approved reallocation proposals involving a greater level of city-grade coverage of a nearby urbanized area. *E.g.*, *Oraibi, Arizona*, 14 FCC Rcd 13537 (Chief, Allocations Branch 1999) (90% of urbanized area); *Mullins, South Carolina*, 14 FCC Rcd 10516 (Chief, Allocations Branch 1999) (67% of urbanized area).

With respect to the second factor, Holt's population (11,315) is 9.5% of the population of central city, Lansing (119,128). This percentage is larger than that approved in other cases. *E.g.*, *Anniston, Alabama*, 16 FCC Rcd 3411 (Chief, Allocations Branch), *aff'd by Commission*, 16 FCC Rcd 19,857 (2001) (5.1%); *Scotland Neck, North Carolina*, 10 FCC Rcd 11,066 (Chief, Allocations Branch 1995) (3.1%). Furthermore, the community reference point for Holt, as listed in the FCC Audio Division's Atlas Software Program, is 10.72 kilometers from the reference point for Lansing. See Exhibit A.

With respect to the third factor, the information CBSL herein presents clearly demonstrates Holt's independent status. Under *Tuck*, eight sub-factors are analyzed in considering whether a community is independent of a nearby central city.

1. the extent to which community residents work in the larger metropolitan area, rather than the specified community;
2. whether the smaller community has its own newspaper or other media that cover the community's local needs and interests;

3. whether community leaders and residents perceive the specified community as being an integral part of, or separate from, the larger metropolitan area;
4. whether the specified community has its own local government and elected officials,
5. whether the smaller community has its own zip code and/or telephone book provided by the local telephone company;
6. whether the community has its own commercial establishments, health facilities, and transportation systems;
7. the extent to which the specified community and the central city are part of the same advertising market; and
8. the extent to which the specified community relies on the larger metropolitan area for various municipal services such as police, fire protection, schools and libraries.

The Commission considers a community independent when a majority of these factors demonstrate that the community is distinct from the urbanized area. *Parker and St. Joe, Florida*, 11 FCC Rcd 1095 (Chief, Allocations Branch 1996); *Jupiter and Hobe Sound, Florida*, 12 FCC Rcd 3570 (Chief, Allocations Branch 1997). Here, nearly all of these factors demonstrate Holt's independence from Lansing.

1. A Significant Percentage of Holt Residents Work in Holt Itself.

According to the US Census Database, Holt has 5,953 workers age 16 years and older. Of that number 939, or 15.8%, work in their place of residence. See Exhibit B hereto. Similar levels of community employment have been favorably cited by the Commission in the past. See *Anniston, Alabama, supra* (16%); *Coolidge and Gilbert, Arizona*, 11 FCC Rcd 3610 (1996) (6%).

2. Holt has its Own Newspaper.

Holt Community News is a weekly newspaper serving Holt. The newspaper carries news of local events and advertising for Holt businesses. The newspaper also extensively covers Holt High

School sports. Weekly issues are typically between 28 and 48 pages. Included in Exhibit D are reduced-sized excerpts of several recent issues.

3. Residents and Community Leaders Consider Holt to be a Separate Community.

Indicative that its residents consider Holt to be a separate community onto itself is the fact that numerous community organizations use Holt in their names. Examples include the Holt Kiwanis Club, the Holt Lions Club, the Holt Rotary Club and the Holt/Dimondale School Business Alliance. *See Exhibit E* Numerous churches also include Holt in their names, including Holt Assembly of God, Holt Baptist Church, Holt Christian Church and Holt United Methodist Church. *Id.* Additionally, dozens of businesses specifically include Holt in their names. *See Exhibit H* Furthermore, the fact that *Holt Community News* provides extensive coverage of Holt events evinces that Holt residents view their community as being separate from Lansing. *See Exhibit D* hereto.

4. Holt is Not Under the Jurisdiction of the Lansing City Government.

As noted above, Holt is situated in Delhi Township (population 22,569). While Holt does not have a local government named for it, the Delhi Charter Township website cites Holt as a common name for Delhi Township. *See Exhibit F.* Delhi Charter Township is governed by an elected Board of Trustees. The Board consists of the Supervisor, the Clerk, the Treasurer and four Trustees. The Board is responsible for, among other duties: (1) adopting township policies and ordinances; (2) approving the budget; (3) approving all expenditures over \$10,000; (4) approving hiring of certain staff; and (5) participating on various committees. The elected positions for Holt Public Schools (see p 9 *infra*) are administered through the Delhi Township Clerk's Office. The Delhi Charter Township Community Services Center, located in Holt, contains the administrative offices for the township and, among other functions, fire, police and community parks and recreation services. *See Exhibit K.*

5. Holt Has its Own Zip Code and Telephone Book.

The Holt zip code is 48842. The Holt main post office is located at 2190 Aurelius Road, Holt. *See* Exhibit G (printout from U.S. Postal Service website).

Furthermore, Holt and neighboring communities have a telephone directory separate from that for the central community, Lansing. *See* Exhibit H (excerpts from Holt & Dimondale Telephone Directory). That directory includes extensive Yellow Page listings for Holt businesses. *Id.*

6. Holt Has Numerous Commercial Establishments and Health Facilities.

As the Holt & Dimondale Telephone Directory illustrates (*see* Exhibit H), numerous businesses are located in Holt. Indicative of Holt's status as an independent community is the fact that many businesses use "Holt" in their name:

Holt Auto Alignment
Holt Auto Clinic
Holt Auto Connection
Holt Auto Sales
Holt Auto Service Center
Holt Builders and Remodelers
Holt Chiropractic Clinic
Holt Cleaners
Holt Community Pharmacy
Holt Country Care Home
Holt Eye Care
Holt Family Dentistry
Holt Family Practice
Holt Handyman
Holt Manor Mobile Park
Holt & Mason Towing
Holt Pro-Cyclery
Holt Products Co.
Holt Shoe & Leather Repair
Holt Veterinary Clinic

See Exhibit H (excerpts from Holt & Dimondale telephone directory white pages); Exhibit I (excerpts from online directories); see also Exhibit C (photographs).

Medical services are also available at Holt. In addition to several doctors and dentists who practice in Holt, located in the community are Holt Family Practice, Holt Family Dentistry, Holt Chiropractic Clinic, Holt Eye Care, Chiro-Technology (a chiropractic practice). *See Exhibit J/* Also located in Holt is the Martin Luther-Holt Home, a 104 bed facility for the elderly *Id*

7. Businesses can Advertise Directly to Holt Residents.

Through the *Holt Community News*, the businesses interested in advertising to the residents of Holt can do so. Furthermore, businesses can directly target Holt residents through listings in the Holt telephone directory Yellow Pages.

8. Holt is Not Dependent on Lansing for Municipal Services.

Holt's municipal services are provided through Delhi Charter Township. Those services include fire protection, taxpayer services, cemetery services, parks maintenance, ordinance enforcement, water treatment, zoning and library services. *See Exhibit K hereto.*

The Delhi Division of the Ingham County Sheriff's Office serves Holt. Twenty officers are assigned to the Delhi Division, whose offices are located in the Delhi Charter Township Service Center in Holt. *Id.*

Also located in Holt is the Delhi Township Fire Department. The Fire Department is staffed by 44 paid staff and volunteers. *Id.*

The Publicly Owned Treatment Works is located in Holt and provides water services to the Delhi Township population and has a staff of 11 people. *Id.*

The Holt/Delhi Library, located in Holt, is equipped with 33,500 books, and a full-time and volunteer staff

The Delhi Charter Township Community Service Center houses the Fire Department, Sheriff's Department, the Holt/Delhi Library, township offices including the Treasurer, Clerk,


Supervisor, Manager, Accounting, Assessing, Engineering/Public Services, Community Development, and Parks and Recreation, and a multi-purpose room for local needs. *Id.* The Township has established a Parks and Recreation Commission, a Planning Commission, a Downtown Development Authority Board, a Maintenance and Safety Department, and various organizations for the community. Some of these organizations include: the Delhi Township Redi-Ride transportation service, Senior Citizen programming, community sports programs. All public administration offices and departments are located in Holt and have Holt mailing addresses.

Holt Public Schools cover all of Delhi Charter Township. According to Holt Public Schools Superintendent Tom Davis, all children attending Holt schools living farther than one mile from their school have bus service to and from the school. Within this independent school district, there are five elementary schools (four of which are in Holt), three middle schools and Holt Senior High School. *See Exhibit L.* Holt Public Schools employ over 400 staff of about 5,400 students. In addition, there are two private/parochial schools in Holt, St. Matthew Lutheran School (K-12) and Capital City Baptist School (K-12).

Conclusion

The materials presents here demonstrate that Holt, although not incorporated, is a community that is distinct and separate from Lansing. Given that fact, and the Commission's directive that in a situation such as this, the AM station seeking to change its community of license is to be preferred, RCRG's request to change the city of license of WQTX from Charlotte to Grand Ledge must be held in abeyance pending processing of CBSL's application to change WLCM's community of license. If CBSL's application is granted, RCRG's petition must be denied.

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